

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Standards and Personnel Appeals Committee

Date: **Monday, 11th December, 2017**

Time: **6.30 pm**

Venue: **Committee Room, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

Alan Maher

a.maher@ashfield.gov.uk

01623 457318

STANDARDS AND PERSONNEL APPEALS COMMITTEE

Membership

Chairman: Councillor Lauren Mitchell

Councillors:

Amanda Brown
Jackie James
Lachlan Morrison
Helen-Ann Smith

Steve Carroll
Cathy Mason
Phil Rostance
Jason Zadrozny

FILMING/AUDIO RECORDING NOTICE

This meeting may be subject to filming or audio recording. If you have any queries regarding this, please contact Members' Services on 01623 457318.

SUMMONS

You are hereby requested to attend a meeting of the Standards and Personnel Appeals Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. **To receive apologies for absence, if any**
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non-Disclosable Pecuniary/Other Interests**
3. **Minutes** 5 - 8
4. **Update on the Review of the Members' Code of Conduct Complaints Process and Social Media Policy** 9 - 16
5. **Review of Politically Restricted Posts** 17 - 24
6. **Quarterly Complaints Monitoring Report** 25 - 30

This page is intentionally left blank

STANDARDS AND PERSONNEL APPEALS COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Monday, 3rd July, 2017 at 6.30 pm

Present: Councillor Lauren Mitchell in the Chair;

Councillors Tony Brewer, Amanda Brown,
Steve Carroll, Jackie James, Cathy Mason,
Lachlan Morrison and Helen-Ann Smith.

Apologies for Absence: Councillors Phil Rostance, Jason Zadrozny

Officers Present: Ruth Dennis, Alan Maher

SP.01 Declarations of Disclosable Pecuniary or Personal Interests and Non-Disclosable Pecuniary/Other Interests

No Declarations of Interest were received.

SP.02 Minutes

The minutes of the meeting held on Monday 27 March 2017 were approved as a true record.

SP.03 Standards Work Plan 2017-2018

The report set out the proposed Work Plan for the 2017/18 municipal year. The Council's Monitoring Officer, Ruth Dennis, explained that the plan included those standing work items, which the Committee usually considered annually, such as updating the Constitution, the operation of the Council's Whistleblowing Policy and quarterly monitoring of complaints against Members.

Mrs Dennis went on to explain that the plan also included several other reviews. The first of these would be into the Members' Code of Conduct complaints process. The second would look at politically restricted officer posts within the Council and the third would review the Co-opted Members and Independent Person arrangements.

The Committee discussed and approved the Work Plan. In particular, Members agreed that the three additional reviews be included. They supported strongly a review into the Members' Code of Conduct Complaints Process. They noted that the LGA Peer Challenge had recommended that this take place. They also recalled that the Committee had independently identified problems with the complaints process. Members had made it clear that they were keen to find ways of speeding up the process in order to reduce costs

and to ensure that it was not being used for vexatious or trivial reasons.

With this in mind, the Committee asked for information on the costs of carrying out investigations to complaints, including the cost of officer time involved in investigations that could have been used for other purposes. The Monitoring Officer agreed to provide this.

The Committee considered how to carry out the review. There was a consensus that a small Task and Finish Group should be established. This would be comparable to the type of body set up to conduct scrutiny reviews. It was agreed that it consist of the Chair of the Committee along with a Committee Member, drawn from each of the political groups (4 Members in total).

Members discussed the scope of the review and in particular, some of the specific issues that would have to be addressed; such as whether sanctions could be imposed at District and Parish Council levels, at what stage apologies should be permitted in order to informally resolve complaints, whether the political groups could play more of a role in helping to prevent and resolve complaints and whether a presumption of guilt on those who refuse to co-operate with complaint investigations would be permissible?

What became clear from the discussion was that the apparent misuse of social media to make unacceptable personal comments had contributed to many of the recent complaints. Although there are clear rules on the use of social media these may not have always been followed and this may have been especially true of those serving on lower level councils. Members agreed, therefore, that in the context of this to review policies on the use of social media, how they are implemented and the impact on the behaviour by some Members and that this should also be looked at by the Task and Finish Group.

RESOLVED

- a) That the Committee approves the Standards & Personnel Appeals Committee Work Plan for 2017-18;
- b) That a Members' Task and Finish Group be established to carry out the review into the Members' Code of Conduct Complaints Process within the suggested time frame;
- c) That the Members' Task and Finish Group consist of the Chair of the Committee along with one Committee Member drawn from each of the political groups (four Members in total),
- d) That the Monitoring Officer be informed of the group representatives to serve on the Task and Finish Group.

Reasons

To reflect good practice.

SP.04 Quarterly Complaints Monitoring Report

The report to Committee provided information on complaints of alleged Member misconduct. This information covered both District and Parish Councillors. It also explained the progress which had been made in assessing them for the period 17 March 2017 to 23 June 2017.

Members were told that the investigation into the complaint ADC2016-01 had now been completed. The draft report had been sent to the Independent Person for his comments. It would then be sent to both parties involved in the complaint, who could also comment.

The Committee was informed the other cases involving District Councillors. No further action had been taken on some, others had been dealt with through action which did not involve hearings and the remainder were awaiting assessment.

Mrs Dennis went on to state that she had received a significant number of complaints involving Parish Councillors since the beginning of the year. The Committee discussed the reasons for these complaints and especially the role which social media posts had played in them.

During this discussion Members made it clear that they were concerned about the reputational damage this behaviour was causing in terms of how the public viewed Councillors and local government as a whole. They also wanted to explore what could be done to ensure more appropriate behaviour and to understand the impact on the Council's own workload of responding to this high volume of new complaints and if necessary having to investigate them.

It was agreed that these and other issues raised by these complaints should be considered by the Task and Finish Group formed to review the Members' Code of Conduct Complaints Process.

RESOLVED

That the Committee notes the updated position in respect of Members' Code of Conduct complaints for the period 17 March 2017 to 23 June 2017.

Reasons

To reflect good practice. To enable Members to monitor the volume and progress of complaints.

The meeting closed at 7.35 pm

Chair.

This page is intentionally left blank

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	11 DECEMBER 2017
Heading:	UPDATE ON THE REVIEW OF THE MEMBERS' CODE OF CONDUCT COMPLAINTS PROCESS AND SOCIAL MEDIA POLICY		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose Of Report

The report is to update the Committee on the review of the Members' Code of Conduct Complaints Process and Members' Social Media Policy.

Recommendation(s)

Committee is asked to:

- 1. Note the work undertaken to date by the Members' Working Group;**
- 2. Consider and comment on the suggested changes to the Members' Code of Conduct Complaints Process and Members' Social Media Policy;**
- 3. Instruct the Monitoring Officer to draft changes to the policies in line with the suggested amendments to bring back to the next Committee for approval.**

Reasons for Recommendation(s)

The review of the Members' Code of Conduct Complaints Process and Members' Social Media Policy is a work plan item for the Committee during 2017/2018.

The Peer Challenge suggested making changes to the complaints process to address the volume of trivial or low level complaints being made relating to Member conduct which is a drain on Council resources to consider and process.

Members also suggested a review of the Members' Social Media Policy in light of a significant number of complaints being made about Members' use of social media.

The Committee is asked for its views in relation to the suggestions of the Member Working Group to enable the Monitoring Officer to draft appropriate changes to the policies to bring back to the next Committee for approval.

Alternative Options Considered (With Reasons Why Not Adopted)

The Committee may wish to suggest alternatives or additional changes to the policies and may provide a steer for the working group to carry out further work.

Detailed Information

Background

Members will recall at the Committee meeting on 3 July, as part of the discussions around the Work Plan for the 2017/18 municipal year, it was agreed to set up a small working group to consider changes to the Members' Code of Conduct and Members' Social Media Policy

The following is an extract from the Minutes of the meeting to remind Members of the discussions and the issues the Committee asked the Group to look into:

*"In particular, Members agreed that the three additional reviews be included. They supported strongly a review into the **Members' Code of Conduct Complaints Process**. They noted that the LGA Peer Challenge had recommended that this take place. They also recalled that the Committee had independently identified problems with the complaints process. Members had made it clear that they were keen to find ways of speeding up the process in order to reduce costs and to ensure that it was not being used for vexatious or trivial reasons.*

*With this in mind, the Committee asked for **information on the costs of carrying out investigations** to complaints, including the cost of officer time involved in investigations that could have been used for other purposes. The Monitoring Officer agreed to provide this.*

The Committee considered how to carry out the review. There was a consensus that a small Task and Finish Group should be established. This would be comparable to the type of body set up to conduct scrutiny reviews. It was agreed that it consist of the Chair of the Committee along with a Committee Member, drawn from each of the political groups (4 Members in total).

*Members discussed the scope of the review and in particular, some of the specific issues that would have to be addressed; **such as whether sanctions could be imposed at District and Parish Council levels, at what stage apologies should be permitted in order to informally resolve complaints, whether the political groups could play more of a role in helping to prevent and resolve complaints and whether a presumption of guilt on those who refuse to co-operate with complaint investigations would be permissible?***

*What became clear from the discussion was that the apparent **misuse of social media** to make unacceptable personal comments had contributed to many of the recent complaints. Although there are clear rules on the use of social media these may not have always been followed and this may have been especially true of those serving on lower level councils. Members agreed, therefore, that in the context of this to review policies on the use of social media, how they are implemented and the impact on the behaviour by some Members and that this should also be looked at by the Task and Finish Group."*

The Group (made up of Councillor Lauren Mitchell (Chairman), and Councillors Lachlan Morrison, Phil Rostance and Helen-Ann Smith) has met on two occasions.

The Working Group has considered:

- Current Members' Code of Conduct
- Current Complaints Handling Process
- Current Social Media Policy for Members
- Outline information regarding complaints made during 2017 including indicative costs information (see below)
- Latest complaints schedule (the most up to date schedule appears at an item on this agenda)
- Examples of complaints made regarding the use of social media
- Examples of policies from other Councils

Issues for the Working Group to consider were identified as follows:

- Revise the complaints process – reduce low level complaints
- Whether the political groups could play more of a role in helping to prevent and resolve complaints
- Whether sanctions could be imposed at a local District and Parish Council levels (not yet considered by the Group)
- At what stage apologies should be permitted in order to informally resolve complaints (not yet considered by the Group)
- Whether a presumption of guilt on those who refuse to co-operate with complaint investigations would be permissible? (not yet considered by the Group)

District Councillor Complaints During 2017

- 6 complaints in total to date
- 1 complaint dealt with by taking other action
- 1 complaint – no action
- 4 outstanding
- 2 relate to social media
- 4 complaints are from District or Parish Councillors

Parish Councillor Complaints During 2017

- 11 complaints in total to date
- 2 complaints relate to things said during or at the conclusion of a Council meeting
- 7 complaints relate to social media posts and the perception of comments made
- 1 complaint – dealt with by taking “other action”

- 9 complaints – dealt with by taking “no action”
- 1 complaint is awaiting assessment

The Chief Executive and the Monitoring Officer attended a meeting at the Parish during July to discuss the unacceptable level of complaints at the Parish. We recommended/agreed to assist as follows:

- Governance Audit – ADC to assist Parish Clerk with this; may need further external support
- Social Media policy review – can be carried out in conjunction with ADC’s own review
- Social Media Top Ten Tips – circulated at the meeting
- Complaints process review – to be carried out in conjunction with ADC’s own review
- Review of Training
- Code of Conduct Training
- Social media training - recommend all Members do at point elected and every 2 years to be refreshed

Estimated Costs for Dealing with Complaints

An estimate of the resources taken to deal with a complaint even if very straight forward and is resolved by taking no further action or other action involves:

- 4 - 6 letters
- Consideration of complaint
- Consultation with Independent Person
- Preparing a decision notice and final decision
- Approximately 2-3 hours per complaint equivalent of £200-£300 of officer time cost
- If interviews are undertaken as part of the initial assessment the costs would increase by a further £100 approximately

For the 17 complaints lodged so far during 2017, a very rough estimate of £7,000 of officer time has been spent on carrying out the basic complaints process of which around £4,400 related to Selston Parish Council. As previously report to Committee ADC cannot recharge the Parish in relation to complaints about Parish Councillors. A handful of complaints have warranted more investigation and so the cost in officer time is probably higher but actual time spent on these complaints being internally investigated has not been recorded (the Legal Section has a new Case Management System which it is implementing which will allow actual time recording to be carried out on complaints work in the future, giving a more accurate picture).

The Working Group was given examples of anonymised complaints relating to social media received by the Council and in all cases they agreed that the complaints were trivial, low level and did not warrant investigation

There was a clear view at the Working Group that the majority of the complaints made during 2017 have been “tit for tat”/ “trivial”/ “politically motivated” and that the use of

social media is a significant issue. The Working Group was concerned at the damage to reputation and public perception caused by these complaints and felt the level of resource required from the District Council to deal with this volume of complaints cannot continue.

To address some of these issues, having considered examples of arrangements at other local authorities the Working Group is recommending the Complaints Process is amended to:

- Require complaints made by a Councillor against a fellow Councillor to be referred to the Group Leaders of the relevant political groups before the Monitoring Officer and Independent Person assess whether to investigate the complaint.
- The expectation will be that the Group Leaders will seek to work together to resolve the complaint informally and to use their group's disciplinary procedures if appropriate to resolve the complaint rather than the Complaints Process.
- If the matter cannot be resolved by the Group Leaders then the complaint will be referred to a Panel of the Standards Committee (probably 3 members) with the Independent Person present, at which the Group Leaders are expected to speak to explain the position. The Panel will then decide whether the complaint merits investigation or should be dealt with by taking other action (such as an apology or training) or that no action is warranted.
- If any of the Members involved in the complaint are non-aligned, it is suggested that the Standards Panel is still convened and that the non-aligned members attend in place of the Group Leader.

Social Media

The Working Group considered a number of social media policies from other authorities. The Group feel that the policy can be reworked to make it clearer the member is responsible for the content of all posts on their social media accounts and that they are responsible for deleting inappropriate content even if it has been written and sent to by other people.

The Group also thought it would be worthwhile trying to produce an "Idiots Guide" to the use of social media and to provide advice about how to use privacy settings.

Next Steps

The Committee is asked to comment on the suggestions made by the Working Group to date, this will enable the Monitoring Officer to begin drafting appropriate wording to reflect these changes. The Working Group will carry out further work looking at local sanctions, apologies and presumptions based on non-cooperation with the process before the next Committee meeting.

Implications

Corporate Plan:

- We will promote positive and respectful behaviour, treating people fairly and respectfully.
- The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

The complaints process must be open, transparent and fair.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	The Authority incurs costs in investigating complaints of alleged Member misconduct, and these charges are borne by the General Fund. The Council investigates complaints in house as far as possible to reduce costs; where complaints need to be investigated externally these costs are expected to be contained within existing budgets.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
<p>The Council has recognised the following Corporate Risk:</p> <p><i>Members’ Ethical Framework – Failure to demonstrate high standards of behaviour (CR003)</i></p> <ul style="list-style-type: none"> • Significant resource to deal with implications of Code of Conduct Complaints. • Potential for negative perception of the Council which impacts upon the Council’s reputation • Potentially adverse impact upon the workings of the Council <p>New legislation does not provide “strong” sanctions for breaches to the Code which may make regulation of poor ethical behaviour difficult and leave complainants dissatisfied with outcomes</p>	<ul style="list-style-type: none"> • Standards and Personnel Appeals Committee approves an annual work programme which includes an annual review. • A review of the Members’ Code of Conduct Complaints Process will be carried out during 2017/2018 in accordance with the recommendations of the LGA Peer Challenge 2017. • Present Quarterly Complaint Monitoring reports to Standards and Personnel (Appeals) Committee. (This report) • The Standards and Personnel Appeals Committee has agreed in its 17/18 work plan to review the Complaints Process, the Code and guidance relating to social media use. The Committee has established a working group of members from the Committee to work with the Monitoring Officer to review best practice and make recommendations to the Committee.

Human Resources:

There are no human resource issues relating to the recommendation contained in this report.

Equalities *(to be completed by the author):*

Reasonable adjustments would be considered and taken into account in relation to any specific complaint.

Other Implications:

None

Report Author and Contact Officer

Ruth Dennis
DIRECTOR OF LEGAL AND GOVERNANCE
r.dennis@ashfield.gov.uk
01623 457009

This page is intentionally left blank

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	11 DECEMBER 2017
Heading:	REVIEW OF POLITICALLY RESTRICTED POSTS		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose Of Report

To provide the Committee with an overview of politically restricted posts as required by legislation set out in the Local Government and Housing Act 1989 (LGHA 1989) with further details in the Local Government (Political Restrictions) Regulations 1990 and amended in the Local Democracy, Economic Development and Construction Act 2009.

To provide Committee with the list of Politically Restricted Posts which was agreed in March 2016 and to seek approval from the Committee to commence a review of that list to ensure it is up to date.

Recommendation(s)

Committee is asked to authorise the Monitoring Officer to:

- a) Produce an up to date draft list of politically restricted posts as required by the Local Government and Housing Act 1989;**
- b) Consult with the Trade Unions in respect of the draft list; and**
- c) Report back to the next Standards and Personnel Appeals Committee.**

Reasons for Recommendation(s)

To comply with the requirements of the Local Government and Housing Act 1989, the Local Government (Political Restrictions) Regulations 1990 and the Local Democracy, Economic Development and Construction Act 2009.

The Committee has appointed the Monitoring Officer as the Proper Officer for the purposes of maintenance of the list and required a report to this Committee every two years as to the adequacy or otherwise of the list. The last reports were presented to Committee in January and March 2016.

Alternative Options Considered (With Reasons Why Not Adopted)

None considered. The Council is under a duty to comply with the legislation. The list was last reviewed in March 2016 and is to be reviewed every two years. Commencing consultation now will ensure a revised list can be reported to Committee in March 2018.

Detailed Information

Historical Position

The first statutory attempt to ensure the political impartiality of those who serve in local government was under the Local Government Act 1972 (LGA 1972) which prevents a Councillor from being employed in any capacity by the local authority he/she is serving.

In 1989, the Local Government and Housing Act 1989 (LGHA 1989) introduced a principle of 'politically restricted posts' and of restricting the political activities of local authority employees. These reforms were made in response to the Widdecombe report which had identified issues of concern involving local authority officers and the apparent lack of political impartiality, which lead to separate loyalties and prejudicial service.

The report distinguished 'twin-tracking' which is where a local authority employee is also an elected Member of another local authority, for special criticism. The concerns included inability to serve the interests of the council on which they sit and the potential lack of political impartiality. Twin-tracking involving those holding 'politically restricted seats' is now restricted by the LGHA 1989, Part 1, which prohibits such activities.

The LGHA 1989 also outlined provisions relating to the appointment of assistants for political groups ('political assistants').

Restrictions under the Local Government Act 1972

Restrictions on Members becoming Officers

A local authority cannot appoint as an employee, in any capacity, any councillor who is currently a member of that authority or who has been a member in the previous 12 months (section 116, Local Government Act 1972).

However, in an authority operating executive arrangements under the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001, a councillor is not precluded from being appointed or elected to a position on the executive which may be described as paid office.

Restrictions on Officers becoming Members

Under section 80 of the Local Government Act 1972, an authority employee will be disqualified from being elected or holding office as a member of that local authority. This principle also applies to joint authorities under section 80; therefore an individual is disqualified from standing or holding office with that specific authority if he holds any paid office or employment with a local or joint authority.

Politically Restricted Posts

The legislation regarding politically restricted posts is to be found in Part 1 LGHA 1989 with further details in the Local Government (Political Restrictions) Regulations 1990 and amended

in the Local Democracy, Economic Development and Construction Act 2009. The aim of this legislation is to ensure the political impartiality of local government employees who hold posts involving duties of a politically sensitive nature.

The effect of including a local authority employee on the list of 'politically restricted posts' is to prevent that individual from having any active political role either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for or holding elected office and these restrictions are incorporated as terms in the employee's contract of employment under section 3 Local Government (Politically Restricted Posts) Regulations 1990. It is left to the discretion of each authority whether or not to reinstate an employee who resigns his post and then consequently fights and loses an election. In practice, this equates to debarring a substantial number of local government employees from standing for office as:

- local councillors
- MPs
- MEPs
- Members of the Welsh Assembly
- Members of Scottish Parliament

They are also restricted from:

- canvassing on behalf of a political party or a person who is or seeks to be a candidate (Regulation 3, Schedule Part I, paragraph 5 Local Government (Politically Restricted Posts) Regulations 1990);
- speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party (Regulation 3, Schedule Part II, paragraph 5 Local Government (Politically Restricted Posts) Regulations 1990).

The cumulative effect of these restrictions is to limit the holders of politically restricted posts to bare membership of political parties with no active participation within the party permitted.

All local authority employees, including craft and manual workers, fall within the scope of the Act. Part time posts are also included where, if the individual was employed full time, the equivalent remuneration would equal or exceed the threshold set out in the statute.

Which posts are politically restricted?

Each local authority is under a duty to draw up and regularly update a list of those posts which are politically restricted. Politically restricted posts fall into three broad categories:

A. Specified posts:

- the Head of the Paid Service (section 4 LGHA, 1989)
- the Statutory Chief Officers
- Non-Statutory Chief Officers
- Deputy Chief Officers
- the Monitoring Officer (section 5 LGHA, 1989)
- the Chief Finance Officer (section 151 LGHA, 1989)
- Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the authority in a list maintained in accordance with section V100G(2) of the Local Government Act
- Assistants to Political Groups.

All these post holders are politically restricted without rights of appeals for exemption to the Standards and Personnel Appeals Committee.

B. Posts paid at or above a certain level

All posts where the remuneration level is or exceeds the 'spinal column point' 44 on the NJC for Local Government Services scales, will be automatically included on the list of politically restricted posts (Local Government (Politically Restricted Posts) (No. 2) Regulations 1990).

Remuneration is a wider term than 'salary level' and would include other variable elements of pay (aside from regional weightings) such as 'acting up'/overtime/shift bonus and performance related pay elements. Cars and other fringe benefits in kind are not intended to be included.

These post holders are allowed to appeal to the Standards and Personnel Appeals Committee to be exempted from the list, on the grounds that they do not influence policy or speak on behalf of the authority to journalists or broadcasters.

C. "Sensitive" posts

A sensitive post is one which meets one or both of the following duties-related criteria:

- giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority; to any committee of that executive or to any member of that executive who is also a member of the authority;
- speaking on behalf of the authority on a regular basis to journalists or broadcasters.

These post holders can appeal to the Standards and Personnel Appeals Committee to be exempted from the list, on the grounds that the authority has wrongly applied the criteria.

Procedure on Appeal

Employees included in the list on either remuneration-related or duties-related grounds can appeal against their inclusion, if they feel that they cannot influence policy, or that the local authority has incorrectly applied the duties-related criteria.

All such appeals require a letter from the applicant formally seeking exemption and a full job description of the post (a 'certificate of opinion' from the authority will also be required in the case of a post holder at or above the remuneration ceiling).

Human Rights and Politically Restricted Posts

The compatibility of political restrictions on local authority posts with an individual's rights under the European Convention of Human Rights was tested in the case of *Ahmed and others v UK* in 1999.

The European Court of Human Rights held that the political restrictions did not breach Article 10 (the right to freedom of expression) or Article 11 (the right to freedom of association) of the applicant's Convention rights, as the public has a right to expect that those holding higher

level local government office are politically impartial.

Review of the Current List of Politically Restricted Posts

The Council's current list of politically restricted posts was approved in March 2016. The Committee agreed that the list should be reviewed every two years to ensure it remains up to date. The current list is attached as Appendix 1.

There have been a number of restructures, including the Corporate Leadership Team, since the list was last updated. The current list was produced before the housing management function came back to the Council, so needs updating to take account of any housing roles which fit the legal criteria.

The Committee is asked to authorise the Monitoring Officer to produce a revised draft list in association with the HR Shared Service and then to consult with the Corporate Leadership Team and the Trade Unions. A draft revised list will be presented to the next Committee along with Trade Union comments.

Implications

Corporate Plan:

- We will be open and transparent in our decision making.
- We will promote positive and respectful behaviour, treating people fairly and respectfully.
- We value our employees and will recognise their effort and commitment
- The Council commits to treating employees fairly and respectfully
- The Council will engage with and consult with employees and Trade Unions on key issues affecting our organisation
- The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

Politically restricted posts are governed by legislation set out in the body of the report. The revised list will be developed taking the statutory criteria into account.

Finance:

There are no financial implications arising from this report.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None

Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
The current list of Politically Restricted Posts was last updated in March 2016 and a number of restructures have taken place in the meantime. The list should be updated every two years. Failing to update the list during 2018 would leave the Council at risk of not complying with the legislation.	Authorising the Monitoring Officer to commence the review of the list of Politically Restricted Posts and to consult on the revised list with CLT and the Trade Unions will ensure the Committee is presented with a revised list in March 2018 in line with the two year review requirement previously set by the Committee.

Human Resources:

The review of politically restricted posts has been undertaken with Human Resources.

Equalities *(to be completed by the author):*

The review of politically restricted posts has been carried out in accordance with legislation and consideration of the Council’s commitment to equality and diversity implications.

Other Implications:

None

Background Papers

None

Report Author and Contact Officer

Ruth Dennis
 DIRECTOR OF LEGAL AND GOVERNANCE
r.dennis@ashfield.gov.uk
 01623 457009

ASHFIELD DISTRICT COUNCIL

LIST OF POLITICALLY RESTRICTED POSTS

1. Specified Posts:

- Chief Executive
- Deputy Chief Executive
- Assistant Chief Executive (Governance) and Monitoring Officer
- Service Director - Corporate Services
- Service Director – Environment
- Interim Service Director Housing
- Interim Service Director Economy

2. Posts paid at or above a certain level

All posts where the remuneration level is or exceeds the ‘spinal column point’ 44 on the NJC for Local Government Services scales, will be automatically included on the list of politically restricted posts (Local Government (Politically Restricted Posts) (No. 2) Regulations 1990).

- Corporate Manager Finance
- Corporate Planning and Building Control Manager
- Corporate Performance Manager
- Principal Solicitor
- Democracy Manager
- Environmental Health Manager
- Transport Services Manager
- Locality & Community Empowerment Manager
- Service Lead - Waste and Environment
- Strategic Housing & Development Manager
- Asset Manager
- Corp Man (Revenues & Customer Services)
- Business Continuity & Sustainability Manager
- Interim ICT Manager
- ICT Manager
- Building Control & Land Charges Manager
- Principal Design & Asset Officer
- Communications Manager
- Locality Team Leader
- Forward Planning Team Manager
- Community Protection Manager
- Senior Solicitor

3. “Sensitive” posts

Definition

- giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority; to any committee of that executive or to any member of that executive who is also a member of the authority;
- giving advice on a regular basis speaking on behalf of the authority on a regular basis to journalists or broadcasters.
 - Scrutiny Manager
 - Democracy Team Leader
 - Democratic Services Officer
 - Assistant Solicitor
 - Legal Executive
 - Communications Officer

Approved March 2016

Report To:	STANDARDS AND PERSONNEL APPEALS COMMITTEE	Date:	11 DECEMBER 2017
Heading:	QUARTERLY COMPLAINTS MONITORING REPORT		
Portfolio Holder:	N/A		
Ward/s:	N/A		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose Of Report

This report provides an update in respect of Members' Code of Conduct complaints.

Recommendation(s)

The Committee is requested to note the updated position in respect of Members' Code of Conduct complaints as set out in the Appendix for the period commencing on 6 October 2017 to 30 November 2017.

Reasons for Recommendation(s)

To reflect good practice. To enable Members to monitor the volume and progress of complaints.

Alternative Options Considered (With Reasons Why Not Adopted)

No alternative options are considered appropriate.

Detailed Information

This report outlines in the Appendix the number of complaints of alleged Member misconduct which have been received since the last update and a summary of those which are outstanding.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

There are no legal issues identified as a result of this monitoring report.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	The Authority incurs costs in investigating complaints of alleged Member misconduct, and these charges are borne by the General Fund. The Council investigates complaints in house as far as possible to reduce costs; where complaints need to be investigated externally these costs are expected to be contained within existing budgets.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
<p>The Council has recognised the following Corporate Risk:</p> <p><i>Members’ Ethical Framework – Failure to demonstrate high standards of behaviour (CR003)</i></p> <ul style="list-style-type: none"> • Significant resource to deal with implications of Code of Conduct Complaints. • Potential for negative perception of the Council which impacts upon the Council’s reputation • Potentially adverse impact upon the workings of the Council • New legislation does not provide “strong” sanctions for breaches to the Code which may make regulation of poor ethical behaviour difficult and leave complainants dissatisfied with outcomes 	<ul style="list-style-type: none"> • Standards and Personnel Appeals Committee approves an annual work programme which includes an annual review. • A review of the Members’ Code of Conduct Complaints Process will be carried out during 2017/2018 in accordance with the recommendations of the LGA Peer Challenge 2017. • Present Quarterly Complaint Monitoring reports to Standards and Personnel (Appeals) Committee. (This report) • The Standards and Personnel Appeals Committee has agreed in its 17/18 work plan to review the Complaints Process, the Code and guidance relating to social media use. The Committee has established a working group of members from the Committee to work with the Monitoring Officer to review best practice and make recommendations to the Committee.

Human Resources:

There are no HR implications associated with this monitoring report.

Equalities (to be completed by the author):

There are no Equality and Diversity implications associated with this monitoring report.

Other Implications:

None.

Report Author and Contact Officer

Ruth Dennis
DIRECTOR OF LEGAL AND GOVERNANCE
r.dennis@ashfield.gov.uk
01623 457009

This page is intentionally left blank

QUARTERLY UPDATE OF COMPLAINTS FROM 6 OCTOBER 2017 TO 30 NOVEMBER 2017

REFERENCE	DATE COMPLAINT RECEIVED BY MONITORING OFFICER	COMPLAINANT TYPE	COMPLAINT ABOUT A DISTRICT OR PARISH COUNCILLOR	ALLEGED BREACH	LOCAL ASSESSMENT DECISION (MONITORING OFFICER IN CONSULTATION WITH INDEPENDENT PERSON)	DATE OF ASSESSMENT DECISION
ADC2017-03	5 March 2017 and 26 May 2017	District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct.	Counter complaint made. Gathered outline information. Held initial discussions with the Independent Person. Subject Member offered an apology. Further discussion with Independent Person needed – arranged for 8 December 2017	
ADC2017-04	1 September 2017	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct.	Awaiting assessment. Held initial discussions with the Independent Person. Gathering more information. Informal fact finding exercise with Complainant carried out on 8 November 2017. Informal Fact Finding exercise with Cllr arranged for 15 December 2017.	

ADC2017-05	4 October 2017	Parish Councillor and District Councillor	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct.	Awaiting assessment. Further information requested from Complainants, specifically Social Media postings.	
ADC2017-06	7 November 2017	Public	District Councillor	2.1 Respect 2.2 Contrary to high standards of conduct. 2.3 Bullying	Meeting held with the complainant. Gathering further information Awaiting assessment	
SPC2017-11	14 November 2017	Parish Councillor	Parish Councillor	2.8 Improper use of information gained as a Councillor for the advancement yourself, your family, friends or your business	Gathering Information Awaiting assessment	